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[*Holub v. H. Nash, Babcock, Babcock & King, Inc.*](#), 93-ERA-25 (ALJ Dec. 17, 1996)
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U.S. Department of Labor
Office of Administrative Law Judges
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DATE: December 17, 1996
CASE NO. 93-ERA-25

IN THE MATTER OF

EDWARD P. HOLUB,
COMPLAINANT,

v.

BABCOCK & KING, INC., FIVE STAR PRODUCTS, INC.,
U.S. GROUT CORP., THE NOMIX CORP.,
THE NASH BABCOCK ENGINEERING COMPANY,
CONSTRUCTION PRODUCTS RESEARCH, INC.,
INTERNATIONAL CONSTRUCTION PRODUCTS RESEARCH, INC.,
FIVE STAR CONSTRUCTION PRODUCTS CANADA, INC.,
RESPONDENTS.

RECOMMENDED DECISION AND ORDER APPROVING SETTLEMENT

The above-captioned matter arises under section 210 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. §585.1. On December 9, 1996 the parties filed a proposed settlement agreement that, if approved by the Secretary of Labor, would resolve all disputed issues and allow for the dismissal of this matter with prejudice.

As required by the relevant regulations and statutory provisions, I have reviewed the agreement to determine if its terms are fair, adequate and reasonable. After doing so, I conclude that the terms of the agreement are, in fact, fair, adequate and reasonable and that the agreement should therefore be approved.

In this regard, it is noted that although the agreement contains various confidentiality provisions, it expressly permits the complainant to report wrongdoing by the respondents to federal and state agencies (see provisions 1.6.5 and 4.1) and specifically provides that

nothing in the agreement shall be construed as restricting disclosure of the terms of the agreement "when required by law" (see provisions 3.1.3 and 3.3). It is also noted that although the agreement represents that its provisions contain confidential commercial and financial information

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failing within the scope of the provisions of 29 C.F.R. §70.26, the agreement also contemplates full disclosure of its terms to officials of the Department of Labor. Finally, it is noted that the amounts to be paid to the complainant and his attorney are appropriate, and that, in negotiating of the terms of the agreement, all parties were represented by well qualified attorneys who were fully aware of all relevant facts and legal principles.

Accordingly, it is recommended:

1. That the Secretary of Labor or his designees on the Administrative Review Board approve the settlement agreement;
2. That the claim of Edward P. Holub against each of the above-referenced respondents be dismissed with prejudice;
3. That the settlement agreement be given such restricted handling as may be necessary to comply with the provisions of 29 C.F.R. §70.26; and
4. That the commercial information submitted during the discovery process for the in camera inspection of the undersigned administrative law judge also be given such restricted handling as may be necessary to comply with the provisions of 29 C.F.R. §70.26.

Paul A. Mapes
Administrative Law Judge

NOTICE: This Recommended Decision and Order and the administrative file in this matter have been forwarded for review by the Administrative Review Board, United States Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. The Administrative Review Board is responsible for issuing final agency decisions under the Energy Reorganization Act of 1974. See 29 C.F.R. Parts 24 and 1978, 61 Fed. Reg. 19982 (May 3, 1996).